

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

---

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 13-CR-124

RICHARD MAYBERRY,

Defendant.

---

ORDER DENYING RICHARD MAYBERRY'S MOTION TO REDUCE SENTENCE

On April 22, 2016, defendant Richard Mayberry filed a motion to reduce sentence on the ground that his sentence was increased under the residual clause of the Sentencing Guidelines. Citing *United States v. Johnson*, Mayberry argued that the residual clause violates the Due Process Clause of the United States Constitution. 135 S. Ct. 2551, 2557 (2015). The court ordered the government to respond to the motion, which the government interpreted as an order under Rule 4 of the Rules Governing Motions Filed Under 28 U.S.C. § 2255. In any event, the United States Supreme Court recently held in *Beckles v. United States*, 2017 WL 855781 (March 6, 2017), that the Guidelines are not subject to the vagueness challenge similar to that in *Johnson*. Moreover, Mayberry qualified as a career offender independent of the residual clause.

Now, therefore,

IT IS ORDERED that Mayberry's motion (Doc. 50) to reduce sentence is denied.

Dated at Milwaukee, Wisconsin, this 17th day of March, 2017.

BY THE COURT

/s/ C.N. Clevert, Jr.  
C.N. CLEVERT, JR.  
U.S. DISTRICT JUDGE